

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1328 be amended to read as follows:

- 1 Page 2, after line 42, begin a new paragraph and insert:
- 2 "SECTION 5. IC 5-14-3-4, AS AMENDED BY P.L.190-1999,
- 3 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2000]: Sec. 4. (a) The following public records are excepted
- 5 from section 3 of this chapter and may not be disclosed by a public
- 6 agency, unless access to the records is specifically required by a state
- 7 or federal statute or is ordered by a court under the rules of discovery:
- 8 (1) Those declared confidential by state statute.
- 9 (2) Those declared confidential by rule adopted by a public
- 10 agency under specific authority to classify public records as
- 11 confidential granted to the public agency by statute.
- 12 (3) Those required to be kept confidential by federal law.
- 13 (4) Records containing trade secrets.
- 14 (5) Confidential financial information obtained, upon request,
- 15 from a person. However, this does not include information that is
- 16 filed with or received by a public agency pursuant to state statute.
- 17 (6) Information concerning research, including actual research
- 18 documents, conducted under the auspices of an institution of
- 19 higher education, including information:
- 20 (A) concerning any negotiations made with respect to the
- 21 research; and
- 22 (B) received from another party involved in the research.
- 23 (7) Grade transcripts and license examination scores obtained as
- 24 part of a licensure process.

(8) Those declared confidential by or under rules adopted by the supreme court of Indiana.

(9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39.

(10) Application information declared confidential by the twenty-first century research and technology fund board under IC 4-4-5.1.

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

(A) a public agency;

(B) the state; or

(C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of his scores.

(5) The following:

(A) Records relating to negotiations between the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the department of commerce shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(6) Records that are intra-agency or interagency advisory or

deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making. **However, at the request of the legislative services agency or the individual members or partisan staff of the general assembly, the records described in this subdivision shall be disclosed by the public agency to the legislative services agency or the general assembly.**

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) information concerning disciplinary actions in which final action has been taken and that resulted in the employee being disciplined or discharged.

However, all personnel file information shall be made available to the affected employee or his representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a recordkeeping or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

(A) the donor requires nondisclosure of his identity as a

- 1 condition of making the gift; or
- 2 (B) after the gift is made, the donor or a member of the donor's
- 3 family requests nondisclosure.
- 4 (16) Library or archival records:
 - 5 (A) which can be used to identify any library patron; or
 - 6 (B) deposited with or acquired by a library upon a condition
 - 7 that the records be disclosed only:
 - 8 (i) to qualified researchers;
 - 9 (ii) after the passing of a period of years that is specified in
 - 10 the documents under which the deposit or acquisition is
 - 11 made; or
 - 12 (iii) after the death of persons specified at the time of the
 - 13 acquisition or deposit.
 - 14 However, nothing in this subdivision shall limit or affect
 - 15 contracts entered into by the Indiana state library pursuant to
 - 16 IC 4-1-6-8.
- 17 (17) The identity of any person who contacts the bureau of motor
- 18 vehicles concerning the ability of a driver to operate a motor
- 19 vehicle safely and the medical records and evaluations made by
- 20 the bureau of motor vehicles staff or members of the driver
- 21 licensing advisory committee. However, upon written request to
- 22 the commissioner of the bureau of motor vehicles, the driver must
- 23 be given copies of the driver's medical records and evaluations
- 24 that concern the driver.
- 25 **(18) Records received by the legislative services agency or the**
- 26 **general assembly from a public agency under subdivision (6).**
- 27 (c) Notwithstanding section 3 of this chapter, a public agency is not
- 28 required to create or provide copies of lists of names and addresses,
- 29 unless the public agency is required to publish such lists and
- 30 disseminate them to the public pursuant to statute. However, if a public
- 31 agency has created a list of names and addresses, it must permit a
- 32 person to inspect and make memoranda abstracts from the lists unless
- 33 access to the lists is prohibited by law. The following lists of names and
- 34 addresses may not be disclosed by public agencies to commercial
- 35 entities for commercial purposes and may not be used by commercial
- 36 entities for commercial purposes:
 - 37 (1) A list of employees of a public agency.
 - 38 (2) A list of persons attending conferences or meetings at a state
 - 39 institution of higher education or of persons involved in programs
 - 40 or activities conducted or supervised by the state institution of
 - 41 higher education.
 - 42 (3) A list of students who are enrolled in a public school
 - 43 corporation if the governing body of the public school corporation
 - 44 adopts a policy:
 - 45 (A) prohibiting the disclosure of the list to commercial entities
 - 46 for commercial purposes; or

- 1 (B) specifying the classes or categories of commercial entities
2 to which the list may not be disclosed or by which the list may
3 not be used for commercial purposes.
4 A policy adopted under subdivision (3) must be uniform and may not
5 discriminate among similarly situated commercial entities.
6 (d) Nothing contained in subsection (b) shall limit or affect the right
7 of a person to inspect and copy a public record required or directed to
8 be made by any statute or by any rule of a public agency.
9 (e) Notwithstanding any other law, a public record that is classified
10 as confidential, other than a record concerning an adoption, shall be
11 made available for inspection and copying seventy-five (75) years after
12 the creation of that record.
13 (f) Notwithstanding subsection (e) and section 7 of this chapter:
14 (1) public records subject to IC 5-15 may be destroyed only in
15 accordance with record retention schedules under IC 5-15; or
16 (2) public records not subject to IC 5-15 may be destroyed in the
17 ordinary course of business."
18 Renumber all SECTIONS consecutively.
(Reference is to HB 1328 as printed January 20, 2000.)

Representative Espich